

REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 27-67 are pending in this application. In the Office Action mailed March 7, 2006, claims 27-67 were rejected. For the reasons stated below, Applicant respectfully submits that all pending claims in this application are in condition for allowance. Applicant reserves the right to pursue prosecution of the subject matter of the amended and cancelled claims at a later time.

The specification has been amended to reference the priority claimed to Application Serial No. 09/368,173 filed August 5, 1999; Application Serial No. 08/347,167 filed November 23, 1994; Application Serial No. 08/109,486 filed August 20, 1993; and Application Serial No. 07/836,085 filed February 14, 1992. This priority reference is made in compliance with the requirements of 35 U.S.C. §120 and 37 C.F.R. §1.78. Applicant notes that the time period requirement under 37 C.F.R. §§1.78(a)(2) and (a)(5) is only applicable to a utility application filed on or after November 29, 2000. The instant application was filed on September 27, 2000. Applicant respectfully requests that the amendment to the specification be entered.

Rejections under 35 U.S.C. §§ 102(b) and 103(a)

Each of the rejections under 35 U.S.C. §§ 102(b) and 103(a) refers to PCT application WO93/15731 filed by Applicant. Upon entry of the amendment to the specification, the instant application has the benefit of the priority applications; and, therefore, the Lamb PCT WO93/15731 is not prior art under both 35 U.S.C. §102(b) and 35 U.S.C. §103(a).

Applicant respectfully requests that the rejections in paragraphs 4, 6, 7, 8, and 9 of the Office Action be withdrawn, namely: (¶4) the rejection of claims 27-29, 31, 33-40, 44-46, 48-50, 52, 54-61 and 65-66 under 35 U.S.C. § 102(b) as being anticipated by WO93/15731; (¶6) the rejection of claims 27-67 under 35 U.S.C. § 103(a) as being unpatentable over WO93/15731 in combination with Aleynik, et al. (J, Investigative Medicine, 1999) or Perricone (U.S. Patent No. 6,191,121); (¶7) the rejection of claims 35-36, 41, 56-57 and 62 under 35 U.S.C. § 103(a) as being unpatentable over WO 93/15731 by itself or in combination with Aleynik, et al. or Perricone, in combination with Mehansho (U.S. Patent 5,888,563); (¶8) the rejection of claims 32, 43, 53 and 64 under 35 U.S.C. 103(a) as being unpatentable over WO93/15731 by itself or in combination with Aleynik, et al. or Perricone in combination with Hendler (U.S. Patent No. 5,114,957); and (¶9) the rejection of claims 32, 36, 42, 53, 57 and 63 under 35 U.S.C. § 103(a) as being unpatentable over WO 93/15731 by itself or in combination with Aleynik, et al. or Perricone, in combination with Pest (U.S. Patent No. 4,439,432).

Accordingly, Applicant respectfully requests that the Examiner acknowledge that claims 27-67 are patentable over each of Aleynik, et al., Perricone, Mehansho, Hendler and Pest, by themselves or in combination, and withdraw the rejections under 35 U.S.C. §§ 102(b) and 103(a).

Rejection under 35 U.S.C. §112, second paragraph

Claims 27-67 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. Specifically, the Examiner requests clarification of the term 'polyenyl phosphatidylcholine' as recited in claims 27 and 48.

Polyenylphosphatidylcholine is phosphatidylcholine having more than one double bond. Other than the requirement that the phosphatidylcholine contain more than one double bond, the term polyenylphosphatidylcholine is not limited to the specific types of fatty acids present. For example, if both fatty acid chains have one double bond, then it is a polyenylphosphatidylcholine. Another example: if at least one of the fatty acid chains has two or more double bonds, then it is a polyenylphosphatidylcholine. The presence of double bonds means that the polyenylphosphatidylcholine is an unsaturated phosphatidylcholine. Typically, polyenylphosphatidylcholine is a mixture of unsaturated phosphatidylcholines. The term "polyenylphosphatidylcholine" also refers to a composition enriched for polyenylphosphatidylcholine.

Soybean-derived phosphatidylcholine is only one example of a source of polyenylphosphatidylcholine. An example of a commercial product containing polyenylphosphatidylcholine is "Phospholipon 90 G" sold by the American Lecithin Company, which is mentioned in the specification at page 9, lines 15-16. The technical data sheet for Phospholipon 90G indicates that it contains at least 94% phosphatidylcholine. A copy of this technical data sheet is provided as Attachment 1. According to the American Lecithin Company website (<http://www.americanlecithin.com/aboutphos.html>), their Phospholipon products are fractionated using soybean lecithin. See Attachment 2.

The meaning of 'polyenylphosphatidylcholine' in claims 27 and 48 is clear. Therefore, claims 27-64 are definite and distinctly claim the subject matter which Applicant regards as the

Serial No.: 09/670,346
Art Unit: 1615

Attorney Docket No.: 072296-0350556
Page 13

invention. Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. § 112, second paragraph.

Conclusion

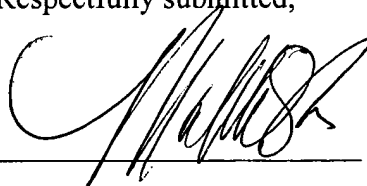
In view of the foregoing, claims 27-67 are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone Applicant's undersigned representative at the number listed below.

PILLSBURY WINTHROP SHAW PITTMAN LLP
1650 Tysons Boulevard
McLean, VA 22102
Tel: 703/770-7900

Respectfully submitted,

Date: Draft

By:

A handwritten signature in black ink, appearing to read 'Michelle S. Marks', written over a horizontal line.

Michelle S. Marks
Registration No. 41,971

2 Attachments

MSM/pj

Customer No. 00909